

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT DONALD DAVIS,
Plaintiff,
v.
WALMART, INC.,
Defendant.

Case No. 1:22-cv-01381-ADA-CDB
**ORDER REQUIRING PLAINTIFF TO
FILE JOINT STATEMENT OF
DISCOVERY DISAGREEMENT
PURSUANT TO LOCAL RULE 251(c)**
DUE DATE: JUNE 16, 2023

On May 24, 2023, the Court held a status conference in which it addressed a statement of discovery disagreement filed by Defendant. (Docs. 24, 28). During the status conference, the Court found that Plaintiff's counsel was delinquent in serving his Rule 26(a)(1) disclosures despite previously representing to the Court that he would serve them prior to the scheduling conference held on March 28, 2023. (Doc. 15 at p. 6).

In addition, counsel for Plaintiff confirmed that he has not yet completed service of Defendant's discovery demands despite them being overdue. Furthermore, although nonexpert discovery has been open for approximately two months, Plaintiff's counsel confirmed that he has not yet served Defendant with any written discovery demands. (*see* Doc. 17).

Based on counsel for Plaintiff's admitted deficiencies, the Court ordered Plaintiff to correct these issues and comply with his discovery obligations. The Court specifically ordered

1 Plaintiff to (1) serve his Rule 26 initial disclosures by May 26, 2023; (2) meet and confer with
2 Defendant and serve his complete responses to Defendant's pending written discovery demands
3 by June 2, 2023; and (3) serve Defendant with his own written discovery demands by June 9,
4 2023. (Doc. 28). Notwithstanding this order, Plaintiff untimely filed his Rule 26 disclosures on
5 May 30, 2023. (Doc. 29).

6 On June 5, 2023, Defendant filed a Supplemental Statement of Discovery Dispute in
7 which it represents that, in response to the Court's order discussed above, Plaintiff produced no
8 responsive documents other than a single photograph of Plaintiff entering Defendant's store.
9 (Doc. 31 at 2). Defendant attached to his filing a copy of a meet and confer letter sent to Plaintiff.
10 (Doc. 31-1). The letter outlines 35 different discovery responses which Defendant believes are
11 non-responsive and incomplete. *Id.* Plaintiff's responses were due on or before June 2, 2023 and
12 appear to remain delinquent as of the date of this order.

13 In addition, Defendant in its filing requests that the Court issue an order either dismissing
14 Plaintiff's claims in their entirety or precluding Plaintiff from introducing any evidence at trial
15 that would have been responsive to Defendant's discovery requests.

16 Based on Defendant's representations, it is apparent that the parties' efforts to meet and
17 confer did not resolve the identified discovery disputes. *See Local Rule 251(b).*

18 Accordingly, the Court ORDERS the parties to draft and file a "Joint Statement re
19 Discovery Disagreement" that complies with Local Rule 251(c). This joint statement shall be
20 drafted by both parties but filed by **Plaintiff by no later than June 16, 2023.**

21 In addition to the requirements contained in Local Rule 251(c), the joint statement shall
22 specify with particularity whether Defendant seeks to compel discovery and/or sanctions.
23 Plaintiff may include in the Joint Statement arguments in opposition to any such motion. The
24 parties are reminded that "[a]ll arguments and briefing that would otherwise be included in a
25 memorandum of points and authorities supporting or opposing the motion shall be included in a
26 this joint statement, and no separate briefing shall be filed." Local Rule 251(c). If Plaintiff fails
27 to secure Defendant's cooperation in preparing the required joint statement, Plaintiff may file an
28 affidavit setting forth his efforts to prepare a joint statement in a manner consistent with Local

1 Rule 251(d) by no later than June 16, 2023.

2 Based on the Court's prior advisements to Plaintiff to comply with all applicable court
3 orders and rules (*see* Docs. 7, 18, 20), in addition to any possible discovery sanctions that may
4 result from noncompliance with a party's discovery obligations, failure to timely comply with this
5 order will result in the imposition of sanctions on Plaintiff's counsel. *See* Local Rule 110.

6 IT IS SO ORDERED.

7 Dated: June 8, 2023


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UNITED STATES MAGISTRATE JUDGE